

**From:** MPJ  
**To:** Microsoft ATR  
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MicroSoft has abused other companies every chance it has had. I propose that a few laws that are not designed to be punitive, could have great effect on preventing companies from destroying competition, not only in the

case of an unruly company like MicroSoft, but even with companies who could dominate a segment in the future; like CISCO or AOL.

1) Any sufficiently successful program, protocol or file format that dominates over 60% of it's market

on a given platform must make the file format or transmission protocol it is based on an open standard. This would mean that anyone who wishes could read and write Word, PowerPoint and Excel files. This would not represent an undue hardship to a company as long as its product remained competitive. For example, the Flash (.swf) file format is an open standard. Any company could start making a Flash editor at any time.

MacroMedia dominates

this market because it makes the best product. Consumers win. MacroMedia keeps a dominant position as long as no one else makes a "better product" not by virtue of a "compatible product".

2) Companies must publish all their APIs for any OS they create. This prevents a company from building hidden accelerations or road blocks to competing application software--which MicroSoft has done on many occasions (WordPerfect, Netscape, Apple's Quicktime, Novell). A company acting "above board" would not be damaged by developers knowing their OS's API interface. I would be suprised by any compelling argument that said; "developers really know what is going on with our OS, and that is a problem."

3) If a company is in a position that allows them special access to another companies software development, the standards for copyright infringement should be higher. For example, if I am a developer and I must submit my application to Microsoft for approval, or I need to give them inside information about the functionality of my application in order to make my software run better on Windows, then the proof of origination in any subsequent software by Microsoft needs to be proven to "be unique and original". The court settlement between Apple and Microsoft stipulated that if either side produced a newly patented technique or algorithm, that the other party would have to license it from the first party whether or not they created something without reverse engineering. The burden of original work should be on the company with inside information. When Microsoft sells most of the software development programs, most of the OS and most of the APIs, they are at an advantage with respect to reverse-engineering any application on their OS. The courts and the public and the competing companies shouldn't have to "trust" a company with such an advantage. The companies in priveleged positions should have to "prove" origination on

competing products or algorithms. A collective of business leaders elected in some way by their peers should have a review board to approve duplicate software submissions by privileged parties before they can be bundled, sold or even given away. This does not in any way include the thousand of "shareware" developers that make many applications that are similar, because they do not have privileged information that could give them an unfair advantage in reverse-engineering.

4) Illegal competition, copyright and patent infringement cases need to be sped up in the court system. Especially in situations where a company has limited capital and resources to defend its means of revenue. In the case of Stacker software, it had to compete against Microsoft who began bundling its major application in Windows (a compression program that effectively doubled the amount of data a given hard drive could hold). It took years to settle in court, meanwhile Stacker had no revenue because the product was now free in Windows. When the case finally made it to court, Microsoft bought up a controlling interest in stock for pennies on the dollar. The lawsuit was dropped because the major stockholder was not Microsoft-rewarded for their lack of ethics. In reference to suggestion (3), prior art cases where a privileged party has duplicated the work of another company needs to be addressed within three to six months, with continuances only available to the injured party.

I believe better laws that would help make a more open market for everyone in this new age of intellectual property would pass the test in this settlement. It does not "directly" punish, nor is it unequally applied as such rulings could apply to all companies. It also prevents future abuses and benefits consumers in the long run. Enforcing such policies would make it easier on the court system, because it will be harder for Monopolies to abuse intellectual property and standards.

Real solutions to this problem need to come forward. The settlement process should be out in the open and fair to the marketplace. There are not many left who actually believe the Microsoft cannot remove Internet Explorer from their operating system when one third party programmer developed a small program that could easily do just that (IEradicator, by Shane Brooks, 1999-2001 <http://www.98lite.net>). When Microsoft openly dismisses court rulings and even increases its non-competitive practices (converting MP3s to proprietary MS-only format in XP, .NET in every aspect, automatically adding links onto web pages that connect to advertisers who have paid Microsoft, this list is just a small sample), it will only encourage other abuses of the courts will in the future.

I hope my suggestions may be helpful.

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